

**COMMISSION MEETING
THURSDAY, JUNE 8, 2000
Draft Minutes**

Chair Ludwig called the meeting to order at 1:35 p.m. at Cavanaugh's Inn at the Park in Spokane. Chair Ludwig called attention to one agenda change that pertained to Item No. 5 – the house banked card room license approval – indicating it would be moved forward and heard right after Item No. 2.

He announced that for the first time since Commissioner Heavey retired a year ago, all of the Commission seats were now full. Chair Ludwig introduced the following attendees and noted that Commissioner Alan Parker would be arriving late:

MEMBERS PRESENT: **CURTIS LUDWIG, Chair;**
COMMISSIONER MARSHALL FORREST;
COMMISSIONER LIZ MCLAUGHLIN;
COMMISSIONER GEORGE ORR;
COMMISSIONER ALAN PARKER; and
Ex Officio Members, SENATOR MARGARITA PRENTICE;
REPRESENTATIVE ALEX WOOD; and
REPRESENTATIVE JIM CLEMENTS

STAFF PRESENT: **BEN BISHOP, Executive Director;**
SHERRI WINSLOW, Deputy Director; Operations;
ED FLEISHER, Deputy Director, Policy & Government Affairs;
DERRY FRIES, Assistant Director, Licensing Operations;
ROBERT BERG, Assistant Director, Special Operations;
AMY PATJENS, Manager, Communications & Legal;
JERRY ACKERMAN, Assistant Attorney General; and
SHIRLEY CORBETT, Executive Assistant

- 1. License Approvals - New Licenses, Changes, and Tribal Certifications**
Commissioner McLaughlin made a motion seconded by **Commissioner Forrest** to approve the new licenses, changes and tribal certifications as listed in pages 1-15 submitted in the agenda packet. *Vote taken; the motion carried with four aye votes.*

2. Review of Friday's Agenda:

Amy Patjens, Manager, Communications & Legal Department, reported three sets of rules would be up for discussion, 1) sale and purchase of gambling equipment which is up for final action next month; 2) the sale on licensed premises only, which deals with charities and card rooms and the sale of pull tabs from the charity to patrons who may be in a commercial card room. Ms. Patjens pointed out an error on the agenda – the fund raising events rules were filed after the last Commission meeting, so the agenda item should be titled for discussion only; and 3) Item No. 5, staff will be asking that the Commission not file this particular rule. Instead, just conduct a discussion about the concept. We have a charitable organization that has formed a for profit corporation and wants to open a card room under that for profit corporation business. Rather than filing a rule, staff recommends some general discussion this month and if appropriate will come forward with a rule the following month.

5. House-Banked Card Room License Approval: (Taken out of Agenda Order)

Silver Dollar Casino, Tacoma:

Derry Fries, Assistant Director presented the first pre-licensing operation for approval of the post CREP era. He summarized the difference between then and now. He recalled that during the card room test period, the main focus was on the operational aspects of the house banked card games. The operations were guided by draft rules and staff procedures. When licensees were presented to the Commissioners for inclusion in the test, it was well after they were licensed and they were originally licensed as a Class E Card Room. However, since May 15th, staff began operating from the permanent rules package the Commission approved in April. Now specific license types exist for house banked card games. There is a tailored application that incorporates all the requirements delineated in the rules. Mr. Fries reviewed collection and verification of the application data and the investigative, inspection and analysis process. He affirmed that when each portion of the process has been completed, and only then, will the applicants be brought before the Commission for approval through a pre-license report.

Little Nevada III, Inc.

d/b/a Silver Dollar Casino of Tacoma, Washington.

Mr. Fries reported that Little Nevada III, Inc., applied for a license to operate 15 tables of house banked card games at the Silver Dollar Casino. It was formed as a privately held corporation in April of 1999. The corporate headquarters are located in Renton, and the corporation, Little Nevada III, Inc., has 100,000 shares of outstanding stock. Seventy thousand shares are owned by Corporate President Tim Iszley, and thirty thousand shares are owned by Corporate Vice President Michael Iszley. The corporation does not hold any other gambling licenses; however, Tim and Michael Iszley are substantial interest holders in two other corporations licensed to operate house banked card games.

Funds to start the business were derived from a credit line from Key Bank. Special agents from the Financial Investigations Unit (FIU) conducted a criminal and personal

background investigation of all substantial interest holders and initiated and completed a financial investigation of both the corporate and personal stockholders. No disqualifying information was found. An onsite pre-operational review (PORE) was conducted in accordance with the rules of the Commission. The applicant was found to be in compliance; however, there were two issues relating to the number of tables and staffing, that needed some follow up. Both issues have been solved. Based on the investigation and the onsite pre-operational review and evaluation, staff recommends Little Nevada III, Inc. be licensed as a house banked public card room authorized to operate up to 15 tables.

Chair Ludwig called Mr. Iszley forward to respond to questions. He then asked if this is their third application. **Mr. Fries** affirmed and noted there's another application pending in Mountlake Terrace. Chair Ludwig asked if there were any problems with the operations at the Silver Dollar Casino in Tukwila or the Silver Dollar Casino in SeaTac. Mr. Fries responded in the negative.

Representative Jim Clements addressed the maximum \$25 betting limit and asked if this was a standard policy with the banking rooms or if there is a variance in the ability to bet \$50 or \$100? **Chair Ludwig** explained the establishment starts at the \$25 wage limit for the first six months and then after review, they are allowed to go up to a maximum of \$100.

Commissioner Forrest asked what would have happened if the organization didn't get their table and staffing problems solved. Would staff have changed their recommendation for approval? **Mr. Fries** responded that the organization has the ability, according to agency rules, to allow transfers, and staff would have looked at that issue before bringing the issue before the Commission. Commissioner Forrest suggested a hypothetical situation were the problems were not resolved, he inquired if staff would suggest some kind of conditional approval. He believed there is a slight inconsistency between the report, which identifies two deficiencies, and the recommendation, which says approval. Commissioner Forrest noted that situations could come up where staff expects the problem to be cured. In such a case, he believed the report should indicate the deficiency and language anticipating that it will be cured before the hearing. That way Commissioners would be alerted to expect something more before voting the approval. Mr. Fries said he would take the recommendation into consideration.

Senator Prentice reported that the Silver Dollar is one of the mini casinos located in her district. She affirmed that it has been a scrupulously good place to visit.

Commissioner Forrest made a motion seconded by **Commissioner McLaughlin** to approve The Silver Dollar Casino in Tacoma to conduct gambling activities in the state of Washington. Vote Taken; the motion carried with four aye votes.

3. **Group IV Qualification Review**

Residence East, Renton:

Robert Berg, Assistant Director, reported that staff conducted a qualification review of the Residence East for its fiscal year ending June 30, 1999. A detailed report of the review is contained in the agenda packet. Staff noted the organization had been licensed since 1973, and was formed as an education organization with approximately 25 active members. The organization provides training and residential services to developmentally disabled adults through both in-house or in-home support and operation of adult group homes.

The compliance analysis of the organization indicated they have not met their net return requirement; however, they are participating in the net return moratorium. Given that consideration, they did meet their net return requirement by achieving a 8.3 percent net return where 5 percent is required under the net return moratorium. There are no pending administrative charges against the organization as of this date and staff has determined they have made significant progress towards their stated purpose. Based on the review, staff recommends approval of Residence East as an educational organization authorized to conduct gambling activities in the state of Washington.

Chair Ludwig invited Executive Director Cheryl Strange and Gambling Manager Rodney Hall to come forward.

Chair Ludwig noted that the organization is proceeding under the net return moratorium and even though they are not meeting that net return from 1998 to 1999, they've showed an increase in their gambling revenues. **Mr. Berg** affirmed and noted that had they not been in the moratorium, their 8.3 percent net return would place them out of compliance. With the reduction in the net return requirement to 5 percent for the measurement period indicated, they were within compliance. As of December of 1999, their net return thus far for the current year is 5.3 percent.

Commissioner Forrest asked if the Bingo operation was stable now and inquired about the future of the Bingo. **Mr. Hall** said he has completed a review of every game they have conducted since last January. As far as revenue is concerned, his organization is holding and have been, but he believed it will be a case of doing the mathematics. **Mr. Hall** apologized for the absence of Executive Director Cheryl Strange, who had another engagement. Residence East has just been chosen as the first organization to open two new homes for patients or disabled people who have been hospitalized for as long as 30 years and never been in a home.

Chair Ludwig called for further comments or questions and there were none.

Commissioner Orr made a motion seconded by **Commissioner Forrest** to approve Residence East, located in Renton as an educational organization and that they be authorized to conduct gambling activities in the state of Washington. *Vote Taken; the motion carried with four aye votes.*

**4. Group V Qualification Review
40 et 8 #99, Vancouver:**

Robert Berg, Assistant Director, reported that staff's qualification review covered the organization's fiscal year ending August 31, 1999. A detailed report is contained in the Commissioners' agenda packet. It was noted this organization has been licensed since 1983 and was formed as a patriotic organization. There are 233 active members and the organization provides charitable services through contributions and scholarships, and maintains a community service club that rebuilt a locomotive promoting Americanism. They also support various local youth activities and programs. The volunteers contributed over 215,000 hours of volunteer time during the measurement period. The organization has met its combined net return percentage of 16 percent for its Class M Bingo license by achieving a net return of 17.3 percent. As of March of this year, their net return for the current year is also 17.3 percent. There are no pending administrative charges against the organization as of this date. There was an issue with regard to their significant progress. Staff confirms significant progress by the determination that at least 60 percent of the revenues are used for direct services or non-supporting services. Their percentage was at 55 percent. However, when staff looked into this, it was discovered that the organization had made an advanced balloon payment of \$100,000 to reduce longer-term debt so they could provide greater funds for their programs in the future. They were advised they could request a waiver from this body, and the organization was issued a verbal warning for that violation.

Based on the review, staff recommends 40 et 8 #99 be approved as a patriotic organization and be authorized to conduct gambling activities in the state of Washington.

Mr. Dick Thompson introduced himself as a member of the Legion and CPA to the organization for a substantial period of time. **Ms. Connie Sorensen**, introduced herself as the manager for 40 et 8 Bingo parlor.

Chair Ludwig noted the organization showed a substantial increase in Bingo revenue from '98 to '99, at a time the Commission is hearing so much about declining revenues for many charities, and he asked what they attributed their success to. **Ms. Sorensen** replied that some Bingo parlors in Portland had closed, and they were getting many of those customers. She noted that for this year, 40 et 8 is losing customers. Last month their figures were also down due to competition from the Lucky Eagle Casino located near Chehalis and two casinos located in Oregon. Chair Ludwig asked about the operating days of the Portland Bingo parlors. Ms. Sorensen said they operate seven days a week and noted they all have the video Poker machines in their parlors. Chair Ludwig asked if they were run by the state of Oregon lottery and not the charities. Ms. Sorensen affirmed. Chair Ludwig asked if the increase in days from three to something more would help. Ms. Sorensen responded that she

didn't know if that would be helpful because players only have a certain amount of gambling money.

Representative Clements asked if the Indian Compacts the Commission approves come up for review or a reconsideration process, or if they were for perpetuity once agreed upon. **Director Bishop** affirmed their perpetuity; the theory being that getting a position locked in is much better than reviewing them every year, knowing they may want to automatically escalate options if they come up for review every year.

Commissioner Forrest commented that the only way the "playing field" would ever be equal is to expand the type of gambling activities that charitable and non profit corporations can offer. He noted the Indians get a broad spread of authority to operate their casinos, which has done a great deal for their communities. This triggers the issue to equalize the playing field, while at the same time, the Legislature is concerned about the expansion of gambling. Commissioner Forrest believed the people that should have the greatest support for gambling are the non profits and charities -- they go back historically and they didn't have the kind of competition they are facing now. In the real world, they are doing a tremendous amount of good, many of these programs are things the state could be doing themselves, but they are being done better and probably much less expensively by these charitable organizations -- and yet they've got nothing to equalize the playing field. Commissioner Forrest suggested the Legislature would do well to take that into account. He couldn't justify opening the volumes of mini-casinos with no restrictions on numbers or anything, while at the same time telling the charitable organizations "tough luck." Commissioner Forrest believed it was terrible public policy.

Representative Clements affirmed his belief that the playing field will probably never be even.

Commissioner McLaughlin made a motion seconded by **Commissioner Forrest** to approve 40 et 8 #99 located in Vancouver, as a patriotic organization and that they be authorized to conduct gambling activities in the state of Washington. *Vote Taken; the motion carried with four aye votes.*

**6. House-Banked Card Room – Phase II Review (Item No. 5 Previously Discussed)
Cadillac Ranch, Longview**

Jim Dibble, Regional Manager, Eastern Washington, reported this facility is a commercial restaurant, lounge and card room located in Longview. The facility is owned by Regina and Jim Bakunowicz with each holding a 50 percent ownership interest. Neither owner holds an interest in any other house banked card rooms. They received their card room license on September 25, 1998, and began conducting house banked card games on October 23, 1998. They are currently operating 13 house banked games consisting of eight Blackjack, two Horseshoe Blackjack, one Caribbean

Stud and two Let It Ride. The licensee also operates one Poker table offering a player-supported progressive prize contest. They are currently licensed to operate 14 tables.

Staff conducted a comprehensive evaluation consisting of the review and direct observation of key operating departments which included gaming operations, cashier's cage and count room, security, surveillance, and accounting departments. Gaming and organizational records were reviewed and evaluated and the licensee's internal controls were in compliance. No hidden ownership or unreported third party financing existed. All violations noted in the initial review were corrected. The city of Longview was contacted and confirmed the licensee was current on all gambling taxes. Information received from the Longview Police Department indicated there were no adverse impacts due to the house banked gaming operation. Based upon the evaluation, staff recommends approval of Level II, Phase II status for the Cadillac Ranch.

Chair Ludwig asked if there were questions. There were none and he asked Mr. and Mrs. Bakunowicz to identify themselves for the record, which they did. Chair Ludwig asked how many other card rooms there were in the Longview/Kelso area. **Mr. Bakunowicz** advised LaCenter has four card rooms just south of their casino, and the nearest tribal casino is Lucky Eagle.

Commissioner McLaughlin made a motion seconded by **Commissioner Forrest** to approve the Cadillac Ranch for Phase II operations. *Vote Taken; Motion passed with four aye votes.*

7. Other Business/General Discussion/Comments from the Public:

Chair Ludwig addressed the three remaining agenda items: a petition concerning the net return violations, a default hearing order to be entered, and an executive session. He asked if there were any comments from the public.

Ms. Delores Chiechi, Executive Director, Recreational Gaming Association, displayed a poster demonstrating what the RGA has done in the area of problem gambling. The poster and brochures will be distributed to all of their members. This is in addition to what's required by state law that each facility posts problem gambling awareness information and the 1-800 number for the Council.

Chair Ludwig reported that the Commission and Washington State hosted the North American Gambling Regulators Association [NAGRA] meeting last month in Seattle, and he asked Deputy Director Sherri Winslow to comment about that meeting.

Sherri Winslow said the conference was a great success. Notable conference highlights included tours of the Muckleshoot Casino and tours of the manufacturing plants for BK Entertainment and Arrow International. Chair Ludwig provided the welcoming remarks, and Senator Prentice served as the keynote speaker and presented an overview of the changes of gaming in Washington State. Ms. Winslow briefly

highlighted presentations provided by agency staff. The end result was a conference that received many positive comments. Ms. Winslow acknowledged and praised staff member Cally Cass-Healy, who served as president this term, and for her efforts in making the organization and the conference successful.

Director Ben Bishop reported that Mr. Fleisher, Ms. Winslow and himself attended the Governor's Annual Leadership Conference on June 7th. Quality is one of the Governor's key points of interest. Director Bishop called on Amy Patjens to inform the Commission about staff's participation in the Governor's Quality Program.

Amy Patjens reported that Phyllis Halliday, Director of the Human Resources Unit is the other internal quality consultant. She reported that in 1997 a Governor's Executive Order was released requesting all agencies to look at quality improvements. As a result, there have been literally millions of dollars and hundreds of thousands of staff time saved from 1997 through the end of 1999. The program encourages employees to be creative and to come up with ideas to improve processes. She directed the commissioner's attention to the "Governing for Results" progress report on how state agencies are improving the quality, service and efficiency of state government. Pages 82-84 feature three of the agency's quality improvement projects:

Mandatory Training for Card Room Employees: All card room employees are required to go to mandatory training. With the advent of the house banked games and each card room employing about 100 employees, the agency had a lot of card room employees that needed training. Rather than doing this training in the traditional way, some teams got together and thought it would be much more efficient to have the training at the card room itself. It made the training more customized, made the training process more efficient for staff and card room employees, and the agency was able to save money by not having to rent various facilities for the training sessions.

E-Mail Speeds Notice to Local Jurisdictions: Staff took advantage of technology. Whenever a new license is issued, staff also notified the local taxing authority and the local law enforcement agency. Rather than continuing to execute the notification by letter and sending them in the mail, this team decided to contact the various jurisdictions and determine if e-mail was a viable notification option. The information is exchanged almost instantly, it decreased the number of mailings by 50 percent, and has saved at least 45 staff hours.

Posting Information on Agency Website Saves Time and Money: This deals with the process of how Commission Meeting Agenda information is posted on the Website. As the agency Website has been created, more and more information is posted rather than mailing hard copies. This action resulted in a decrease of monthly agenda mailings by about 70 percent, approximately \$4,000 was saved in just printing and mailing costs, and it reduced staff time to mail agenda by over 50 percent.

Ms. Patjens publicly thanked the agency's information services staff, saying "we have the best IS staff in state government" and noted they were involved in two of the quality improvements that received recognition.

Director Bishop affirmed these may seem like small steps, but they have indeed only been the first steps which are generating lots of new ideas.

Commissioner McLaughlin addressed the June 7th tour to the Silver Lanes Bowling and Casino and Players & Spectators facilities organized by the Recreational Gaming Association. She emphasized that both facilities were beautiful and impressive, and worth the time to tour.

With no further comments from the public, **Chair Ludwig** declared a 15-minute recess at 2:35 p.m. The meeting reconvened at 2:55 p.m. Chair Ludwig was advised The Lake Washington Youth Soccer representatives were not present.

9. Default Hearing Card Room Employee's License (Taken out of Agenda Order)

Catherine Hedges, Seattle

Chair Ludwig proceeded with the Default Hearing regarding Catherine Hedges of Seattle, which he believed meant an entry of that Order by default which would be signed by the Commission when presented.

10. Executive Session to Discuss Pending Investigations and Litigation

At 3:00 p.m., **Chair Ludwig** recessed the regular meeting to conduct an executive session while the Commissioners waited for the representatives from Lake Washington Youth Soccer. The open public meeting was reconvened at 3:40 p.m.

Default Hearing Card Room Employee's License

Catherine Hedges, Seattle

Chair Ludwig explained that prior to the executive session, the matter of a default hearing regarding Catherine Hedges of Seattle was addressed. Chair Ludwig noted that rather than simply sign an Order, the Commission would be required to take formal action.

Commissioner McLaughlin made a motion seconded by **Commissioner Orr** to deny the application, by default, of Catherine Hedges for a card room employee's license.
Vote Taken; motion carried with four aye votes.

(Commissioner Alan Parker arrived at 3:45 p.m., and was introduced as the newest Commissioner.)

8. Petition Concerning Net Return Violations (Taken out of Agenda Order)

Lake Washington Youth Soccer, Bothell:

Chair Ludwig announced that the Commission would take up the petition of Lake Washington Youth Soccer for an exemption to the net return violation.

Steve Webert, Secretary/Treasurer for Lake Washington Youth Soccer
Melinda Froud, Staff Attorney

After hearing presentations by Mr. Webert and Attorney Froud, **Commissioner Forrest** made a motion seconded by **Commissioner McLaughlin** to allow Lake Washington Youth Soccer to renew their license at the current rate, and to review their license at the January 2001 meeting, and see what has been accomplished in the meantime.

Commissioner Forrest hoped that by January, staff would see if there is any sentiment in the Legislature for any change. He emphasized that the idea of dropping ratings may have made sense at one time, but that it didn't make much sense now. Commissioner Forrest supported the need to come up with a new standard or new basic; perhaps two or three basic rates that organizations must meet. "If the organization doesn't meet that rate, they're out of the Bingo business." *Vote Taken; motion carried with five aye votes.*

Jerry Ackerman, Assistant Attorney General, verified that the motion was to waive the net return requirement for the organization until January 2001. Chair Ludwig affirmed and Commissioner McLaughlin noted the organization would be retained at the License "K" rating.

Chair Ludwig addressed the July meeting, noting the meeting on Thursday, July 13th, will commence at 10:00 a.m. in order to conduct a two-hour discussion of Bingo gross receipts and net return requirements.

A motion to adjourn the meeting prevailed at 4:45 p.m.

Submitted by,

Shirley A. Corbett
Executive Assistant

**COMMISSION MEETING
FRIDAY, JUNE 9, 2000
Draft Minutes**

Chair Ludwig called the meeting to order at 9:30 a.m. at Cavanaugh's Inn at the Park located in Spokane. Chair Ludwig facilitated introductions and focused briefly on the newest member of the Commission, Alan Parker.

MEMBERS PRESENT: CURTIS LUDWIG, Chair;
COMMISSIONER MARSHALL FORREST;
COMMISSIONER LIZ MCLAUGHLIN;
COMMISSIONER GEORGE ORR;
COMMISSIONER ALAN PARKER; and
Ex Officio Members, SENATOR MARGARITA PRENTICE;
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ROBERT BERG, Assistant Director, Special Operations;
AMY PATJENS, Manager, Communications and Legal;
JERRY ACKERMAN, Assistant Attorney General; and
SHIRLEY CORBETT, Executive Assistant

1. **Minutes** – May 11th & 12th, 2000, La Conner.
Chair Ludwig declared that if there were no corrections, changes or additions to the May 11th & 12th meeting minutes, they would stand approved as written. There were no objections.

Rules Up For Discussion

2. **Sale and Purchase of Gambling Equipment.**
WAC 230-02-412 - Gambling equipment defined;
WAC 230-04-110 - Licensing of manufacturers;
WAC 230-04-115 - Licensing of manufacturers – Exception – Special sales permit;
WAC 230-04-120 - Licensing of distributors;

WAC 230-04-124 - Licensing of manufacturer, distributor, gambling service supplier, and linked bingo prize provider representatives;

WAC 230-04-203 - Fees – Commercial stimulant and other business organizations;

WAC 230-12-335 - Control of gambling equipment – Sales and purchases by and to licensees only – Exceptions;

WAC 230-30-212 – Repeal - Punch boards, pull-tabs and related equipment may be sold with sale of business;

WAC 230-30-213 - Sale of punch boards, pull-tabs and pull-tab dispensing devices when license revoked, expired or voluntarily surrendered.

Amy Patjens, Manager, Communications and Legal Department, reported this rules package was proposed because staff discovered there was no rule requiring licensees such as distributors to only sell card room equipment to someone who's also legally allowed to possess it, such as card rooms. Staff also discovered that gambling equipment was defined in several different rules instead of just one rule. This package resolves both of those issues.

Item 2A is simply a definition of gambling equipment.

Item 2B, C, and D are rules that had gambling equipment already defined within them even though they dealt with broader topics such as the licensing of manufacturers, special sales permits, and the licensing of distributors. Any changes other than the removal of the definitions are housekeeping changes, not substantive changes.

Item 2E deals with representatives of distributor manufacturers, gambling service suppliers and linked Bingo prize providers. Staff wanted to make it clear that the employer must ensure their employees who are selling gambling equipment are properly licensed, and that the employer would take all necessary steps to make sure that unlicensed people aren't selling the equipment.

Item 2F is a housekeeping change, in an attempt to get all of the fees into one rule. It is not a new fee. One other small change relates to a fee being reduced by five dollars.

Chair Ludwig asked if in view of the court ruling in King County, the agency should worry about I-695 in reference to any of these fees. **Ed Fleisher**, Deputy Director, informed the Commission that the Governor's Office has asked state agencies to wait until that case is heard by the Supreme Court (which he believed is scheduled for August) before any action is taken.

Ms. Patjens noted that Item 2G requires that all licensees ensure that gambling equipment is only bought, sold and possessed by authorized entities. There are also some requirements about when equipment is going to be transferred. The concern is that equipment be tracked and records must be kept of transactions whenever a transfer is being executed. Staff also added a word in the first paragraph in Subsection 1 of WAC 230-12-335. As house banked card rooms buy their equipment and as they get ready for their pre-operation review, they haven't been licensed, however, they need to have a mechanism where they could get their equipment. An exception has been made

allowing card room applicants to possess equipment during the pre-licensing process. Currently, the rule states after receiving approval from Commission staff. It would also be prudent to require written approval from staff versus an oral approval.

Item 2H is a repealer. The information relating to transferring equipment is now contained in Item 2G, so Item 2H is no longer needed.

Ms. Patjens affirmed this rules package will be up for final action next month.

Chair Ludwig called for any questions, there were none, and he opened the meeting for public comments. No comments were forthcoming. The Chair closed the public hearing.

3. Sales on Licensed Premises Only.

WAC 230-12-074 - Sales on licensed premises only – Exceptions.

Ms. Patjens stated this rule was filed after the April Commission meeting. It is up for discussion today and will be up for final action next month. Ms. Patjens explained that Seattle Jr. Hockey, a charitable organization, will be leasing part of its Bingo premises to a commercial card room, and that commercial card room plans to operate house banked card games. The charitable organization would like to be able to sell pulltabs to the card room patrons. The organization originally approached the director and asked whether this would be permissible. Staff felt this was a policy call that would require rulemaking if it were allowed. Staff has worked on the rule with Seattle Junior Hockey. The rule would simply allow the charitable organization to sell the pulltabs to the card room customers as long as certain conditions are met -- the conditions are spelled out in the rule. Staff recommends further discussion.

Chair Ludwig recalled that the proposed lease between Mr. Beadle and Seattle Junior Hockey and the proposed card room prohibits the card room operator from selling pulltabs. Ms. Patjens affirmed.

Commissioner Forrest asked if the leases were made available to the Commission in a formal manner and before the matter is approved. **Mr. Fleisher** affirmed. Commissioner Forrest then asked if staff had a sense that this could be a lifeline to other organizations, or whether this was tailored to Seattle Junior Hockey because they have an appealing location for a card room operator. **Ms. Patjens** affirmed there have been other expressions of interest from approximately three other organizations. Commissioner Forrest asked if staff were satisfied that the rule as currently drafted is satisfactory for other situations. Ms. Patjens affirmed this rule should cover everyone with similar conditions.

Commissioner McLaughlin asked Mr. Beadle what Mountlake Terrace's reaction is to this proposal. **Mr. Beadle** said they are supportive because of I-695 impact and the increased taxes from the enhanced card rooms. They passed an ordinance to gradually

increase their taxes on enhanced card rooms up to 10 percent over a period of time. That's a lot of money for Mountlake Terrace. They are also very aware that Seattle Junior Hockey will hopefully be selling pulltabs seven days a week which will also increase their tax base. Mr. Beadle urged favorable approval, and if approved that the rule be implemented on the first applicable date – 31 days after filing.

In regard to patrons that come to the Bingo parlor, **Representative Clements** asked if there was any age category distinction between who could access the card room if alcohol was being served. **Mr. Beadle** responded affirmatively and pointed out that an enhanced card room with a Class H license cannot let liquor leave their licensed premises. He noted that in his premises, liquor will not be allowed. He also advised that his organization has an age limit (12-years of age) house rule for Bingo and affirmed that patrons 12-years of age would not be allowed in the card room. Representative Clements verified that a 12-year-old could play Bingo and Mr. Beadle explained that per RCW, as long as a child is accompanied by a parent or guardian, there is no age limit

Chair Ludwig asked for any other comments and reiterated this would not be the last opportunity to speak on this issue because it will be on the July agenda. There were no additional comments and the public hearing was closed.

4. Fund Raising Events:

WAC 230-02-504-Fund-raising event defined.

WAC 230-25-030-Fund-raising event – Ten-thousand dollars annual net receipts maximum.

WAC 230-25-040-Fund-raising event(s) - House rules to be developed and posted – Limitations on wagers.

WAC 230-25-070-Fund-raising events - Central accounting system required.

WAC 230-25-100-Fund-raising event((s)) – Leasing of premises of retail business- Conditions.

WAC 230-25-110-Fund-raising event - ((Use of)) Equipment use, lease or rental from licensee only.

WAC 230-25-120-Limits upon amount for rent, lease or similar payments for fund-raising events.

WAC 230-25-150-Pull-tabs at fund-raising events - Authorized.

WAC 230-25-200-Bingo at fund-raising events.

WAC 230-25-220-Raffles or similar drawings conducted at fund-raising events.

WAC 230-25-310-Fund-raising event - List of workers to be available on premises.

WAC 230-25-315-Workers to wear identification tabs.

WAC 230-25-325-Limited fund-raising event – Merchandise prizes.

Amy Patjens, Manager, reported these rules were filed after the last Commission meeting and came about because of legislation that was passed during last session. The Gambling Commission is involved with three types of related activities. The first is the Reno or Casino Night event, which is the traditional fundraising event. These are events put on by charities to raise funds for their stated purposes and they have always been run by volunteer members of the organization. Over the last few years, these events have decreased greatly due to competition. The second type of event is the recreational gaming activities; they can be put on by various organizations including charities. They are “fun” raisers, not “fund” raisers, and they are not trying to get money back to the organization. The Gambling Commission makes sure that

the people who are providing Blackjack tables for these events have a license from the Commission. These organizations use scrip that doesn't have any type of value. Sometimes the event is designed so that patrons pay \$100 for a dinner and as a part of that dinner they receive \$20 worth of scrip or fake money. At the end of the night, there would be some way to convert the winnings for a prize. The third activity allowed by recent legislation is called limited fund raising events (FRE's). It allows charitable organizations to hire equipment providers and have paid employees facilitate the event. Only scrip can be used and only merchandise (no cash) may be given away as prizes.

Ms. Patjens said there are 13 rules with this package.

Item 4A provides a definition of fund raising events

Item 4B deals with the maximum receipts that can be raised at the fund raising event. By law, this is limited to \$10,000 in net receipts for the traditional and the new limited fund raising events. Under the limited fund raising events, organizations are allowed to take out or subtract the rental fees they pay to arrive at the net receipt amount. There are two versions of the rule.

Alternative 1) states that if more than \$10,000 is raised at a traditional fund raising event, the excess must be given to another charity or back to the participants playing the event. The alternative also sets forth that if the event is a limited event, the excess would be given to another charity. The purpose of the legislation was to help charities, and the desire was to have the money going back to another charity versus going back to participants.

Alternative 2) is offered with the idea that it may be easier to have one standard for the fund raising events - when you exceed the \$10,000 the excess would go to a charity, period.

Item 4C states that the organizations have to develop and post house rules on how their fund raising events will be conducted. They have to include wagering limits in their house rules, and they are set at \$10 for traditional FRE's. There are no limits with the limited fund raising event because they are playing with scrip.

Item 4D deals with the accounting system requirements. Some wordsmithing changes were made relating to the requirements for the traditional fund raising events. House rules for the limited fund raising events have to explain how much of the admission fee will go towards scrip and how much for expenses.

Item 4E addresses the leasing of commercial business premises. The new law states that a fund raising event equipment provider cannot provide the actual facility where the fund raising event is going to occur. The idea was not to have one location designated as the place for all fund raising events. Staff added text that the provider of

the equipment may not be compensated by the facility where the fund raising event is being held.

Item 4F provides for the equipment use, lease and rental. The equipment must be obtained from another licensed distributor or another charitable organization that is licensed for fund raising.

Item 4G addresses the limits on how much can be paid to rent the equipment. Again, the purpose of the limited fund raising event is to get funds back to the organizations. Comments made at the last Commission meeting relating to setting out the different amounts and two versions of the rule were provided:

Alternative 1) (new) States that licensees will make a good faith effort to ensure that the rental payments and costs don't exceed the amount that's brought in for the activities.

Alternative 2) (original) Is more specific and states that the rental fee for the premises can be no more than \$200, and the equipment rental fee would be set at approximately \$400.

Items H-J deal with Pulltabs, Bingo and raffles activities that occur at a traditional fund raising events. Such activities would not be allowed at limited FRE's because all the wagers would be made with scrip. Selling pulltabs would obviously involve cash, which would complicate record keeping.

Item K requires the organization to keep a list of the names of the fund raising event equipment provider and to get the names of the employees who are going to be working at the event.

Item L requires that people who are working at these events wear names tags.

Item M is a new section dealing with the procedures and restrictions for limited fund raising events. The law says that only members and guests can participate. There was discussion about whether there needed to be a percentage, and staff's original proposal was that the guests be set at 25 percent. The proposed alternative simply states that the events are for members and guests and does not include any type of a percentage requirement. The rule requires that certain information be included on the license application, and it requires that the contract by and between the organization and the equipment provider be attached to the application.

Ms. Patjens advised that staff recommends further discussion and affirmed the package will be up for final action next month.

Commissioner Orr referred to limited fund raisers and noted that the Commission has heard appeals over the last two months from Bingo non-profit-charitables. The biggest

problem that caused them not to make their net return was their significant rental rates. He raised the concern, suggested further discussion and questioned whether the Commission is consistent and whether this issue should be further addressed by the Commission. **Ms. Patjens** suggested the events would be quite limited because of the \$10,000. That is why there are two proposals about how much the equipment could be rented for, and it is set at \$400 under the one scenario. **Chair Ludwig** opened the meeting for public testimony.

Davor Gjurasic, representing a coalition of event companies and non profit organizations affirmed he brought the original legislation to the Gambling Commission and the Legislature. He noted that Senator Margarita Prentice, Representative Clements and Representative Alex Wood were the prime sponsors of the legislation.

Mr. Gjurasic thought the reason these events have been declining is because one can't make very much money the way they were structured; and they had the possibility of losing money, which is why the \$10,000 limit was set in RCW.

Mr. Gjurasic discussed the types of fund raising events from the Casino Night events to recreational gambling activity - where it is just for entertainment. There are the types of fund raising events sponsored by the Elks Clubs and churches that have the opportunity to use real money at their tables. Then there is the new form of limited fund raising events which can be used for fund raising purposes, but no money is used. The vehicle of choice is not using real money, knowing your expenses going in, and only giving away 10 percent in prizes. Mr. Gjurasic stressed "no money is involved" and addressed the issue of setting fees for the non profits to pay for these events. There is a fee for the recreational gaming events, and a substantially higher amount for the types of fund raising events the Elks Clubs sponsors. When establishing the license fee, Mr. Gjurasic asked the Commission to consider the premises of the legislation, which was to help out the non profits.

Mr. Gjurasic affirmed the guests/members arbitrary 25 percent rule was submitted as a starting point for general discussion. An amendment was offered stating that only 25 percent of non members can attend. A lot of the non profits and small non profits organizations only have 10 to 20 members and the 25 percent rule would drastically affect turnout. The goal in Alternative 2 would be to have everyone sell as many tickets as possible to guests and friends and to not limit participation. **Chair Ludwig** supported the alternative to take out the 25 percent limitation.

Mr. Gjurasic said he supported Alternative #2 which strikes the language guests may not exceed 25 percent of events. He also noted that current RCWs states that only bona fide charities and non profits with 15 voting members can sponsor these types of events. He urged a review of the RCW in consideration of the smaller non profits that have less than 15 members.

Don Kaufman, General Managing Director, Big Brothers/Big Sisters in Spokane, expressed concern about trying to equalize some of the rules. He supported the change to the existing fund raising rule where the excess money would be given to another charity. However, he suggested this information should be shared with the various clubs and Lynn Melby. He noted that what draws some of the customers to the events is the fact that there can sometimes be a larger pool of money (\$1,000 to \$3,000) that might be available at a drawing at the end of the night. If that is taken away, it may take away the incentive for customers to attend that event. Another suggestion to equalize with the limited card room would be to allow them to deduct their equipment costs before the \$10,000. The new rule states they can deduct their equipment costs and still get the \$10,000 -- the old rule says they must include the equipment costs below the \$10,000. **Mr. Fleisher** affirmed that staff will contact the Federation of Clubs and solicit responses from them regarding changing the rule on the excess funds.

Chair Ludwig addressed the large cash prize drawing, and asked what happens if an organization doesn't make that much money. **Mr. Kaufman** said there would be no drawing and affirmed customers would know that. He recommended a disclaimer be placed on the bottom of the ad indicating that any revenues (according to statute) above \$10,000 would go back to the customer or go to a non profit organization. One or the other should be specified. Chair Ludwig asked if that contingent-type of notice would be sufficient. **Jerry Ackerman**, Assistant Attorney General, believed that it would. Mr. Kaufman affirmed it's been done that way for 27 years. Chair Ludwig said the Commission will consider Mr. Kaufman's suggestion and the preliminary advice.

Commissioner McLaughlin noted the \$10,000 limit which was placed in the rules in the '70s could be outdated in terms of the value of that \$10,000. **Mr. Kaufman** agreed that inflation is eating up that amount. **Senator Prentice** responded that if the legislature had attempted to do anything about the \$10,000 limit, they would have been at the 60 percent level. They would have been expanding gambling. She emphasized the bill was hard enough to get through because there were people who felt they were expanding gambling anyway. The legislature sold it because it had to do with having the licensed vendors, people who knew what they were doing, conducting the games and making sure things were legitimate.

Commissioner Forrest questioned the concept of deducting the cost of the equipment before calculating the \$10,000 limit. **Mr. Kaufman** referred to staff's chart, noting it said the organization may not deduct the cost of rental equipment from the yearly maximum of \$10,000. However, the limited fund raiser chart indicates the organization may deduct the cost of rental equipment. He suggested that in order to raise the profitability of the first event and more equalize the two, they should be allowed to deduct the equipment costs before the \$10,000 limit.

Representative Clements suggested that it would help the legislators if the Commission had a position when they go back into session on these. He affirmed the ex officio members always face the expansion of gambling issue, which is a political one. He asked for clarification – “are we talking about using the gambling-type equipment to raise money for not-for-profit or charitable reasons?” The argument is the under certain WACs the costs of that equipment can be deducted. Representative Clements didn’t understand why it is allowed in one place but not in another. **Ms. Patjens** responded that when the rule changes were made, staff was real clear with the limited fund raising events, but the changes weren’t incorporated for the traditional fund raising events which should be reviewed. **Mr. Fleisher** verified the statutes and concurred it was inconsistent to allow the deduction of the rental costs from the \$10,000 in the limited fund raising event, but not in the traditional casino night.

Commissioner Orr commented that \$10,000 in the ‘70s was nearly a year’s salary for most working folks. He believed that regardless of the political heat, he would entertain the debate as to why they shouldn’t have an escalator added to that amount. Commissioner Orr also expressed concern about the RCW requiring 15 voting people in a non profit/charitable organization. He asked for a sharing of information with the user groups in order to assist the Commissioners in making the decisions and as an avenue to give legislators their opinions. **Representative Clements** agreed and advised that he is willing to work on the issue and is willing to take the political heat. **Senator Prentice** concurred. She cautioned against proposals that have the potential to “sink a bill.”

Chair Ludwig called for further questions or testimony, there were none. He closed the public hearing and noted this item will appear on the agenda next month.

5. Charitable/nonprofits Owning a Commercial Gambling Establishment.

WAC 230-04-026 – Ownership of a commercial gambling establishment by charitable and nonprofit organizations.

Amy Patjens announced this item is up for discussion only. She reported that a nonprofit organization has created a separate for-profit corporation and they want to be able to open a house banked card room. Staff is asking to delay filing this rule. There are two questions; the policy question of whether this activity is okay to conduct, and, if it is okay, should there be any restriction on the percentage of ownership. The rule on the agenda deals with a 49 percent rule and concern has been expressed that if discussion is focused on filing the rule, we may miss the underlying issue whether this is proper policy.

Commissioner Forrest commented that one question is strict legality; the other question is policy. In other words, if we can do it, should we do it? He believed this is an area the charitable/non profits will need to address – particularly if there are legislators who see this as an expansion of gambling. Personally, Commissioner Forrest didn’t believe so, he stated that “anyone wanting to open a card room who

meets the qualifications may do so. Whatever expansion of gambling is involved has taken place already.” Commissioner Forrest said it would be helpful if by the next meeting, interested parties would set forth their views, or appear in person at the next meeting. Without knowing all the details he believed this is a reasonable development. Commissioner Forrest believed however, the legal issues should be resolved first.

Mr. Fleisher noted a letter submitted by Mr. Sal Leone was contained in the agenda packet. He affirmed that staff believes this is a policy decision for the Commission. Statutes give the Commission broad discretion -- they do not clearly prohibit it, although there is an underlying structure of the gambling statute that generally keeps commercial and charitable organizations on different tracks. When it comes to card rooms, house banked or not, commercial food and drink establishments can run a card room for the general public. Charities and non profits are authorized to run card rooms, but only for their members and guests. Mr. Fleisher noted this issue came up at a meeting in Spokane about a year ago when a question was raised about the possibilities of a charity going into some joint venture with a nonprofit. There was quite a reaction from the legislators. **Senator Prentice** affirmed the issue was raised at the Legislators’ Roundtable event in Spokane.

Commissioner Parker asked if they would be talking about the law as opposed to the policy. **Mr. Fleisher** affirmed that Jerry Ackerman, Assistant Attorney General, would talk about the law to define the limits of the policy range. He noted the Commission has received one application, and staff is aware of a couple others that are interested in similar ventures. Discussions were initiated with the attorney general last fall and some of the early advice indicated a narrow scope of policy options for the Commission. More recent discussions indicate that the legal advice now is going to be a much broader scope.

Mr. Jerry Ackerman, Assistant Attorney General affirmed his predecessor was asked a slightly different question than the one he has been asked recently. The issues seem to have evolved over time from one relating mostly to what is the permissible use of the premises of a nonprofit operation, to what is the permissible scope of ownership by a nonprofit of a for-profit , which he believed, has dictated slightly different answers. He noted that in looking at the ownership question in Chapter 9.46, which is what is before the Commission today, it appears that the Legislature attempted to construct over time two separate regulatory schemes, one for nonprofit corporations and one for for-profit enterprises. He stated that it is very hard to find an intent that the two of those should meet at any point. The language in 9.46 does not prohibit it with the exception of Section 9.46.120, which Mr. Ackerman read into the record:

“No person who takes any part in the management or operation of any such gambling activity shall take part in the management or operation of any gambling activity conducted by any other organization or any other branch of the same organization unless approved by the Commission.”

In reviewing the chapter, and this one specific prohibition, it appears that policy-wise, the Commission has an infinite range of choices. They could flatly prohibit ownership and ownership interest by a nonprofit in a for-profit activity; or they could allow it if they so chose to do so. However, the Commission would have to pass appropriate regulations. The Commission also has the ability to approve that type of an interest with conditions or with specific limitations they may impose by regulation. The Commission could even review each application individually on a case-by-case basis if they chose to do so. **Mr. Ackerman** felt that we were left with an anomaly, and in his opinion, it didn't appear that the Legislature actually intended for this to happen. Yet, the language of the statute has given the Commission the discretion to allow this if they choose to do so. Mr. Ackerman explained the reason staff removed this as a proposed rule was because the Commissioners haven't had an opportunity to consider the policy choices available to them and to decide what, if anything, they want to do in exercising their discretion.

Chair Ludwig asked if the language was the underlying basis for the 49 percent proposal. Mr. Ackerman thought the figure was essentially proposed by staff in an attempt to get the issue before the Commission. **Mr. Fleisher** indicated it can be argued that 49 percent would be the right number because of the ownership or control factor. Staff used this number simply to present the topic for discussion, it is not staff's recommendation that 49 percent is the appropriate number. In fact, Mr. Fleisher advised that Director Bishop had concerns about the 49 percent number. Staff presented the rule primarily to answer that question and to avoid handling similar applications on a case-by-case basis decision-making process.

Mr. Ackerman reported there a number of side issues that are too broad to even get into at this point. For instance, should the Commission decide to allow these types of ownership interests either in total or with conditions or limitations; a nonprofit that chooses to become an owner perhaps through a wholly-owned subsidiary of a for-profit enterprise potentially puts themselves at significant risk. He said it is entirely possible, that the IRS might conclude they no longer qualify under 501(C)(3) as a non profit corporation and, of course, if they lose their 501(C)(3) status, that is one of the things this Commission looks at in deciding whether or not an enterprise qualifies as a non profit corporation under 9.46. In fact, if they lose their qualification, that is deemed by statute to be prima facie evidence that they no longer are a non profit corporation. Mr. Ackerman believed the Commission must construe this in the context of 9.46 and what the Commission's discretion is. Certainly any non profit that might undertake to obtain an ownership interest in a for-profit venture may run some significant risks. They also must still comply with the rules and restrictions that relate to the separate enterprises when they conduct them. When the non profit is operating under its non profit license, it is still subject to the restrictions that are imposed by statute on those types of operations. Mr. Ackerman affirmed there are a lot of unanswered questions and a lot of risks. One of the tricky things for a non profit that wants to own a for-profit enterprise is going to be the issue of interlocking boards of

directors – in other words having the same people on the boards of each corporation – using the same employees in each corporation. That will raise another host of legal issues that might in fact disqualify them from their non profit status.

However, legally, in terms of the gambling chapter, it appears that the Commission has almost unlimited authority to dictate what the policy will be. **Mr. Ackerman** said there are other laws under the corporation laws in Title 24, and there are other legal issues that arise for non profits that may want to pursue this venture, but in terms of the Commission's regulatory authority, it appears that it's essential plenary – that the Commission can make a call across the whole spectrum. **Commissioner Forrest** asked if he was correct that the statute applies regarding a classic for-profit card room. Mr. Ackerman affirmed.

Mr. Fleisher said RCW 9.46.120 is broad and covers both the profit and non profits; what it in effect says is that no one that's managing or running one licensee can't be the manager or operator of another licensee without the permission of the Gambling Commission. He affirmed that historically there have been many licensees that had more than one location. **Chair Ludwig** said that as a matter of fact, the Commission gave such approval to Silver Dollar Casino yesterday and to Freddie's Club, in particular, one of those is a corporation and another one is a sole proprietorship, so the Commission has given that approval without realizing it. **Mr. Fleisher** believed the Commission gives the approval by granting the license. What is new here, is that the Commission has not had any cases where that dual management crosses from the non-profit to the for-profit, but clearly there is precedent of multiple licenses being authorized.

Commissioner Parker believed this is a very important policy question. From his experience in working in public policy, it seemed clear that there is essentially a firewall between the charitable organizations and the commercial gambling organizations in terms of how they're looked at and how the law tries to treat them. He affirmed that based on the information provided by Mr. Ackerman, it seems to be clear that there are very good reasons for that and that there's an expectation in the public that government is going to continue to keep that firewall in place. He affirmed that we know individuals can be involved in profit and non profit ventures, they do that in their individual capacity. Commissioner Parker asked if what is being proposed is not to do that in an individual capacity, but in their corporate capacity. **Mr. Ackerman** said the intent was to surface the issue for the Commission and give an option to take public testimony from interested parties, if that would help the Commission make it's decision.

Commissioner Parker noted that Mr. Ackerman's analysis of the law in this area of the Gambling Commission's authorities shows there is flexibility. He asked if there are areas of the law that might be instructive to the Commission -- corporate law and tax law where there's clear public policy embedded in the law that speaks to this question, which could be of guidance to the Commission in terms of the ownership

issue. **Mr. Ackerman** believed there are a myriad of issues. Some are obvious – the tax implication – whether or not the IRS would conclude that someone has forfeited their 501 (C)(3) status. Another obvious area is the estate corporation law; under state corporation law, a non profit corporation (Title 24) can own shares of a for-profit corporation. That's specifically allowed for non profits outside the gambling context. In general they have that power. However, the Commission's charge is much narrower in terms of the policy call on gambling and the permissible scope of gambling. Mr. Ackerman emphasized there are a number of legal issues, and he believed any non profit wishing to pursue this issue should have their attorneys look very closely to avoid the unintended consequences of ending up with serious organizational legal problems unrelated to gambling.

Commissioner Forrest asked what is reasonable to ask the applicant, and if would it be reasonable for them to give the Commission a concrete structure they would like the Commission to approve. Commissioner Forrest thought it wouldn't be unfair to ask the interested parties to give the Commission a concrete structure of what they would like the Commission to approve -- it might help the Commission focus their discussion as to what the problems are. **Mr. Ackerman** said he could request additional information from the applicant, and affirmed the Commission may review these applications on a case-by-case basis. Another option staff considered, which resulted in the tentative rule presented addresses whether the Commission wants to promulgate this kind of rule. Commissioner Forrest wasn't in favor of a case-by-case review. He thought the Commission should have a general policy. **Chair Ludwig** agreed. He felt the interested parties may not be in a position to comment until the next meeting, and he opened the subject for public comment.

Commissioner Parker asked if interested parties are invited to submit proposals would the Commission then be taking a position they have accepted the premises that as a matter of public policy we're going to be open to this activity? **Chair Ludwig** didn't think so, he believed the policy issue must be decided separately and independently of what's being considered and discussed. He thought it might help the Commissioners facilitate their discussion as well as consider the policy questions based on actually seeing what the interested parties would like to see designed. **Mr. Ackerman** noted that one of the reasons that staff withdrew this rule was because they were afraid further discussion would obscure the first basic question, which is, does the Commission want to allow this activity? Right now, per 9.46.120, the activity cannot happen without Commission permission - that's the first question, not the percent of ownership or anything else – do you want it to happen?

Mr. Fleisher affirmed there is one formal application, and staff knows of at least a couple others that are looking at this and are interested. He didn't know if the applicants are in the audience today. He affirmed the RGA will talk to them and try and get their input. Mr. Fleisher emphasized that making license applicant decisions on a case-by-case basis gets very expensive and problematic for the licensee.

Commissioner Orr asked if the Commission couldn't network with other states and

find out how they deal with this issue. Secondly, he addressed the new section that addresses charitable non profit organizations ownership, and suggested saying charitable and non profits have to own 51 percent. He cautioned that the Commission needed to be acutely aware of the policy being set.

Commissioner McLaughlin expressed concerned that if the discussions continue over a long period of time, will it preclude legislation coming forward from the Legislature? **Senator Prentice** responded this issue would be on everybody's mind once the information comes out. She believed this is exactly the kind of discussion that needs to begin, and every ramification needs to be discussed. She also recalled the meeting last year when many people wondered why the legislators had reacted so negatively to this concept. She noted the whole series of Roundtables was to provide education about gambling. Senator Prentice addressed the firewall Commissioner Parker mentioned, and affirmed it is on everyone's mind. **Representative Clements** said he would politically fight any process that would allow sales of for-profit to be into non profit organizations. He stressed they are distinctly different organizations, their charge is different and they should remain different. He stated there are certain regulations for the blending of funds and taxing issues that afford the not-for-profits a different playing field than the for-profit. He emphasized that he hasn't heard anything that would persuade him to encourage the Commissioners to allow the formation of profit and for-profit activities. Representative Clements said it would create a lot of problems. He suggested public hearings be conducted and perhaps the Legislators could look at the legal aspect. **Senator Prentice** preferred the hearings be held within the Gambling Commission venue because the Legislature is unused to dealing with the whole issue of gambling. She noted that people feel at ease discussing gambling at Commission Meetings. They don't feel politically at risk when they are talking about "what ifs" and it allows for free and open discussion with competing interests. Senator Prentice expressed her desire to wait and see where the whole discussion goes before making a stand.

Chair Ludwig confirmed the intent today was to invite discussion and suggestions. He noted the rule would not be filed today and that there would be plenty of time to discuss the issue. He reaffirmed the suggestion for interested parties to come back next month with concrete ideas or appropriate comments.

Robert L. Ransom, President of Cascade Youth Music Association, (formerly the Seattle Cascade Booster Club) advised he is the current applicant. The nonprofit association has a 20,000 square foot building and it has investments in money market funds. They created a separate corporation, which was an investment corporation called Cascade Youth Music Association Capital Investment. Capital Investment then created Cascade Food Services. Their intent is to take 5,000 square feet of their 20,000 square foot building, convert the restaurant and a space they aren't using – 2,500 square feet, and make it available for casino activities. They would completely separate the Bingo activities from the casino activities, however, the restaurant and bathrooms could be jointly accessed. Mr. Ransom said his organization sees this as an

investment issue. This is how they invest money in their facilities, and this is a way to get a return on their investment. That return and investment could then be used for youth activities. His organization is looking at this in terms of taking net returns from a profit organization and spending it on nonprofit charitable activities. Totally separate is the issue of getting the commercial license and getting the city's building permits. This rule if approved, would give his organization the right to invest their money and their facilities in a manner that could be profitable and ultimately use the net returns and invest it in their youth activities.

Chair Ludwig asked what would happen if they find out the profit is not what they expected -- who would pay off the debts? **Mr. Ransom** responded that was one reason it was a separate profit-making corporation. Beyond that, it's no different than their investments in money markets and stock companies. **Chair Ludwig** indicated the investment in stocks may go bad, but the organization is not on the hook if they don't owe a bank money. He questioned what would happen if the organization owed a lending agency money in order to build their business. **Mr. Ransom** said that is why there is an investment corporation in the middle -- it is a profit-making and stockholder, and Cascade Food Services serves as the stock company. Chair Ludwig asked if the investment corporation would guarantee any loans. Mr. Ransom declined to speculate on how the final money arrangements would be executed. Chair Ludwig feared the card room market may become saturated in time and people may lose money because of location or competition -- he asked how a nonprofit could take that kind of a risk. Mr. Ransom believed the nonprofit is looking at it in terms of contributing to building facilities which they will get back. They're investing a certain defined amount of money as their share of the stock; they may sell stock to other investors, or use a limited liability program to get other investors in, but that corporation would stand alone and would be financially reliable for that commercial entity. If the commercial entity goes under, it's no different than any other commercial company that sells stock, they shouldn't be liable for more than the stock they purchased, and whatever credit they were given for their facilities, if they lost, they would get the facilities back. Chair Ludwig asked if the intent was to sell or sublease part of the facility to a commercial operation. Mr. Ransom said the intent would be to sublease.

Commissioner McLaughlin questioned sharing bathrooms and restaurant facilities between the two enterprises and whether that was allowable with rentals. **Mr. John Beadle** advised they have some joint restrooms restaurant facilities, as well as some that are dedicated.

Representative Clements asked Mr. Ransom what percentage of his not-for-profit activities goes for charitable causes. **Mr. Ransom** replied that almost all of the net earnings goes to the charitable, about 75 percent goes back into prizes, about 20 percent goes into the cost of running the organization, and on an average, there's approximately 5 percent left. Representative Clements asked if he seeks any state, federal, or local funds from taxpayers to help with these not-for-profit activities. Mr.

Ransom replied they receive over \$50,000 a year in such activities, and in some years they have received \$100,000. Representative Clements noted that's called a blending of funds and it creates a lot of problems, especially when he subleases to himself in a sense in a for-profit organization.

Chair Ludwig declared a recess at 11:15 a.m., the hearing resumed at 11:30 a.m. Chair Ludwig called for other questions or public testimony.

Mr. John Beadle, Seattle Junior Hockey, commented on previous testimony regarding keeping a watchful eye and maintaining vigilance over the nonprofits and how they operate their affairs with the IRS. He said he has worked with the IRS for over 20-years. He contacted John Johns in the Tax Exempt Division, and received a breakout of the tax exempt nonprofits nationally. There are \$1,300,000 tax exempt and nonprofits registered with the IRS. More than 50 percent, are 501(C)(3)'s. Mr. Johns informed Mr. Beadle that throughout the United States there are numerous nonprofits that have 100 percent ownership of a for-profit corporation. Organizations interested in this type of activity would have to establish an 1120 S-Corp, and the proceeds of the S-Corp would feed back to the nonprofit. The nonprofit would have to pay unrelated business income tax which is structured very similarly to federal income tax so there wouldn't be unfair competition as opposed to private enterprise. The IRS does not differentiate on the type of business it is as long as it is a legal business within the state. However, it is up to the state in which you're in, because it varies from state to state with regard to the law pertaining to gambling in that state. Mr. Beadle affirmed the need to get the necessary information from the IRS in writing. Mr. Beadle thought it may be difficult for a nonprofit to enter into this particular arena right now because it's already so saturated, it would be difficult, although there are still locations. He did not want to see any nonprofit handicapped if this an option they could pursue to make money for their charitable cause. Mr. Beadle recommended further discussion to see what the pitfalls are and to see if they can be overcome.

Senator Prentice suggested that interested parties would be wise to talk to the card rooms and look at what the investment is in equipment and how labor intensive a 24-hour operation is when you include the security and surveillance issues. She strongly advised looking before leaping.

Mr. Bob Tull, Attorney, commented that he has had a chance to work with a number of nonprofit organizations (some that operate Bingo), and to consider whether or not they would look into operating a card room. In some cases they have locations that might be very appropriately suited. In another case, the charity concluded that its particular market area probably was too risky. He recalled that over the last 15 years there have been a lot of charities that tried Bingo and lost. Boards of directors for nonprofits have always been faced with the responsibility of common law and of the statutes – to be right and to be careful fiduciaries and to make sure that the fund and purposes of their institutions are carefully monitored. Mr. Tull went on to say that he didn't think there is a current need for the Commission to pass a regulation. Currently,

if people/organizations qualify, they get the licenses that are required by law. If a group of people got together and included a nonprofit as part of the ownership, it would be disclosed, investigated and the source of funds determined. To disqualify an investor because it happened to be a charity that saw a way to perhaps make the transition from Bingo to something would not be in furtherance of the specific goals that the Gambling Act sets out for the Gambling Commission. Mr. Tull asked the Commission to keep in mind that charities have always faced the business risk and they have been dealing with it recently month after month. Whereas, if the Bingo operation declines, they could make portions of their property available to a for-profit business and in some cases, will only want the landlord risk – they'll just sublease. In other cases, they may think they have a better chance and take on more of the entrepreneurial risks in an effort to get the entrepreneurial upside.

Chair Ludwig affirmed Mr. Tull's comments may be right on target, however, this is a new concept and merits consideration. He noted there are also zoning and the moratorium issues – if a card room is placed in some cities, more problems may be created. **Mr. Tull** indicated that the issue is very much alive and he assured the Commission the organizations he's encountered are extremely careful and are way ahead of the tax issues because of their concern about the corporation law issues.

Ashley Vail, Counsel for Lake Washington Youth Soccer Association, said that given the interest expressed today on this latest subject, it is her intent on behalf of her client, to submit a specific model addressing some of the corporate and tax issues that have been addressed today in hopes it will further this discussion. She affirmed her client is very interested in the matter, and will provide more information at the next meeting. With no further public comment, **Chair Ludwig** advised this matter will be continued for discussion and possible filing at the July meeting.

6. Other Business/General Discussion/ Comments from the Public

Senator Prentice announced that Rascal's Casino is sponsoring a golf tournament tomorrow at Foster Links. The proceeds will go to Children's Orthopedic Hospital, and they anticipate raising about \$2,500 to \$3,000.

Chair Ludwig called for any other public comments.

Don Kaufman addressed the 15 member issue and clarified that the 15 members do not have to be board members; they have to be members of the corporation. He stressed that it is the concept of having a membership that elects the board that creates confusion. The question arises that if you don't have 15 members, you must be a small organization, and what kind of gambling should you be involved in.

There were no further public comments or business. **Chair Ludwig** reported June is typically the meeting the Commission elects new officers for the next year. He called for nominations for the Chair position.

Commissioner Forrest, as Vice Chair, said it was his great pleasure to nominate an experienced lady as Chair for the coming year. He therefore nominated Elizabeth McLaughlin. **Commissioner Orr** seconded the nomination. **Chair Ludwig** asked if there were further nominations for the Chair position. **Commissioner Orr** moved to close the nominations for the Chair position and **Commissioner Parker** seconded the motion. *Vote Take; motion to nominate Commissioner McLaughlin as Chair passed unanimously.*

Chair Ludwig commented that the present Vice Chair is Commissioner Forrest, and while it is usually normal for the Vice Chair to succeed and become the new Chairperson, Commissioner Forrest has declined the position. Chair Ludwig called for nominations for the position of Vice Chair.

Chair Ludwig noted that he has worked with Commissioner George Orr since he's been on this Commission in addition to the four years they served together as Legislators in Olympia. He found Commissioner Orr to be a great person to work with and he believes he would make an excellent Vice Chair and a foreseeable Chairperson in the coming years. **Commissioner Forrest** seconded the nomination. **Commissioner McLaughlin** made a motion seconded by **Commissioner Forrest** to close the nominations. *Vote Taken; motion to nominate Commissioner Orr as Vice Chair carried unanimously.*

Chair McLaughlin thanked the Commission for their vote of confidence.

Ms. Delores Chiechi, Recreational Gaming Association, expressed the RGA's appreciation for Chairman Ludwig's fair and accurate Chairmanship over the last year. She affirmed the RGA has enjoyed working with Commissioner Ludwig in that capacity, and looks forward to his continued service on the Commission. Ms. Chiechi welcomed Chair McLaughlin back to the Chairperson position.

With no further business, **Chair McLaughlin** adjourned the meeting at 11:50 a.m..

Submitted by:

*Shirley Corbett
Executive Assistant*